

EXHIBIT 70

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EPIC GAMES, INC.,

Plaintiff, Counter-defendant,
v.

APPLE INC.,

Defendant, Counterclaimant.

Case No. 4:20-cv-05640-YGR-TSH

**EPIC GAMES, INC.'S FOUR-
HOUR DEPOSITION
DESIGNATION**

Judge: Hon. Yvonne Gonzalez Rogers

EPIC GAMES, INC.'S FOUR-HOUR
DEPOSITION DESIGNATION
4:20-cv-05640-YGR-TSH

Epic Games, Inc. v. Apple Inc., No. 4:20-cv-05640-YGR-TSH (N.D. Cal.)

**Deposition Designation of Adrian Ong
(February 24, 2021)**

Time

Epic Games, Inc.'s Designations (Blue Highlight)	Apple Inc.'s Designations (Yellow Highlight)
1 hour 2 minutes 19 seconds	1 minute 17 seconds

Ong, Adrian (Vol. 01) - February 24, 2021

1 CLIP (RUNNING 01:03:32.737)

79 SEGMENTS (RUNNING 01:03:32.737)

1. PAGE 9:10 TO 9:12 (RUNNING 00:00:04.121)

10 Q. Can you please state your full name for
 11 the record?
 12 A. Yes. Adrian Ong.

2. PAGE 9:15 TO 9:18 (RUNNING 00:00:05.141)

15 Q. Are you currently employed?
 16 A. I am.
 17 Q. By whom?
 18 A. Match Group.

3. PAGE 9:22 TO 10:12 (RUNNING 00:00:49.908)

22 Q. What position do you hold at Match
 23 Group?
 24 A. I am the senior vice president of
 25 operations for Match Group.
 00010:01 Q. What are your responsibilities as senior
 02 vice president of operations at Match Group?
 03 A. So I provide oversight to our portfolio
 04 brands on various operational areas, whether or not
 05 it's payments, customer service, fraud or various
 06 initiatives that they're working on.
 07 I'm also in charge of negotiating a
 08 lot of our partnerships across the brands.
 09 Especially those which are common across multiple
 10 brands or across some of our largest brands, and
 11 that has included in the past, you know, our Apple
 12 and Google relationship.

4. PAGE 12:09 TO 13:25 (RUNNING 00:02:36.396)

09 Q. Just stepping back, what is Match Group?
 10 A. Match Group is a portfolio company that
 11 owns, you know, most of the largest dating brands,
 12 online dating brands.
 13 Q. What were some examples of Match Group's
 14 current products?
 15 A. Tinder, Hinge, match.com, OkCupid.
 16 Q. Again, what types of products are those;
 17 what do they do?
 18 A. They're introducing singles to each
 19 other. So, essentially, an online dating platform.
 20 Q. How can consumers access those products?
 21 A. They can access them through apps. So
 22 iOS app, Android app, and then through the web. So
 23 mobile web or the desktop.
 24 Q. Are any of Match Group's dating service
 25 products available on gaming consoles, such as the
 00013:01 Nintendo Switch, the Xbox or the PlayStation?
 02 A. Not that I'm aware of.
 03 Q. Okay. Why is that?
 04 A. It's -- I just don't see it being a good
 05 fit. Number one, it's about audience. You know,
 06 I'm sure there's lots of singles who are gamers,
 07 but -- you know, I would -- I wouldn't say every --
 08 you know, there's a large -- I wouldn't say all

09 single folks are gamers.
 10 And so -- and we just find that, you
 11 know, majority of the audience and distribution is
 12 on the mobile device. And so, you know, most people
 13 have their mobile devices with them all the time,
 14 which means they're able to find matches anytime
 15 they want. You've got push notifications. And so
 16 they're receiving alerts and messages that, you
 17 know, they've got new matches or they've received
 18 new messages from people.
 19 Also, our apps are designed to be
 20 location-based. And so they're not really -- it's
 21 not really convenient to carry your gaming console
 22 around with you. And so while people are on the
 23 move, whether or not it's traveling from home to
 24 work or wherever they are, they're able to find new
 25 singles in their area.

5. PAGE 17:03 TO 17:15 (RUNNING 00:00:43.317)

03 Q. Well, just in general, how does Match
 04 Group make money from its products?
 05 A. Gotcha. Gotcha.
 06 Yeah. We sell subscriptions, and
 07 what we call our consumables or our products.
 08 Q. Do you also offer in-app purchases?
 09 A. Yes.
 10 Q. Can you describe for me first, what are
 11 subscriptions?
 12 A. Yes. Subscriptions are essentially
 13 renewable, paid memberships that allow you to access
 14 additional premium features, and they can be
 15 single-month or multi-month in length.

6. PAGE 17:22 TO 18:25 (RUNNING 00:01:34.618)

22 more details, but just in general, what are in-app
 23 purchases from a Match Group perspective?
 24 A. In-app purchases can be either
 25 subscriptions or consumables that are purchased via
 00018:01 the -- within the app.
 02 Q. So what are some examples of Match
 03 Group's, what you're calling consumables, in-app
 04 purchases?
 05 A. Things such as a Super Like that you can
 06 purchase on Tinder. Or a Boost. You know,
 07 essentially, a Boost will expose you to and give you
 08 more exposure to additional people for a fixed
 09 period of time.
 10 Q. What is a Super Like?
 11 A. Super Like is essentially letting
 12 someone else know that you're interested in them,
 13 but it's -- it provides more emphasis on it so that
 14 you can be differentiated.
 15 Q. If a Tinder user would like to purchase
 16 a Super Like or a Boost, like, how does that work in
 17 the app?
 18 A. Essentially, they can -- when they --
 19 they can go into the app, decide that they want to
 20 boost themselves for a period of time, click on the
 21 button, you know, essentially, they will be
 22 presented with the option for the Boost.
 23 You can purchase, the in-app window
 24 will pop up, and then touch your thumbprint, touch
 25 ID, and you can go through with it.

19. PAGE 33:18 TO 34:07 (RUNNING 00:01:15.461)

18 A. Apple doesn't give you a choice. You
 19 have to use the App Store.
 20 Q. If it were permitted, would Match Group
 21 consider distributing its apps to iOS users in some
 22 other way?
 23 A. Yes, we -- we would explore that.
 24 Q. What benefits to Match would there be of
 25 distributing Match Group's apps to consumers
 00034:01 directly, and not through the App Store?
 02 A. We wouldn't have to use in-app payments,
 03 or IAP, and I think that part is key. Obviously,
 04 that would -- you know, that depends what the
 05 alternative would be, but that would result in, you
 06 know, better margins. It would allow us to price
 07 our products cheaper, like we do on the web.

20. PAGE 34:14 TO 37:07 (RUNNING 00:03:47.190)

14 Does the requirement that Match
 15 Group sell its apps through the App Store permit
 16 Match Group to transact directly with the end users?
 17 A. We are not able to transact -- users are
 18 not able to transact directly with us.
 19 Q. Would there be benefits to Match Group
 20 from being able to transact directly with the end
 21 users of your products?
 22 A. Yes.
 23 Q. What would some of those benefits be?
 24 A. Again, we would not pay the margins of
 25 the 30 percent to Apple, which in turn would result
 00035:01 in lower prices for customers. Roughly, it costs
 02 less than 5 percent, you know, to manage payments,
 03 refunds, all of that.
 04 If you look at PayPal, it's under
 05 2 percent to use PayPal. And the App Store, in-app
 06 payments, PayPal is an option there, so I'm not sure
 07 why we're paying 30 percent when it costs us less
 08 than 2 percent to use exactly the same payment
 09 method.
 10 It's important also from a customer
 11 relationship standpoint. You know, customers are
 12 used to approaching a brand directly for any of
 13 their concerns.
 14 So I would say, paying customers are
 15 our priority. So it's extremely strange and
 16 abnormal for customers to have to reach out to the
 17 main company for all general customer inquiries, and
 18 then have to reach out to another company as it
 19 pertains to the -- their paid experience.
 20 So, you know, for example, we -- if
 21 we -- if a user is contacting us and they're having
 22 a poor experience, we're not able to issue them a
 23 refund. We have to point them to Apple. If they
 24 can't get a refund from Apple and they complain to
 25 us, there's nothing we can do about it.
 00036:01 And we've seen, you know -- we've
 02 seen one-star ratings in the App Store because they
 03 had a poor refund experience with Apple, which kind
 04 of seems to be unfair because, you know, not only do
 05 you have a poor customer experience, but, you know,
 06 typically, what that means is if you have a poor
 07 customer experience, you associate it directly with
 08 that product, right.
 09 So even if the product is working
 10 100 percent and working great, if I have a poor
 11 customer experience, I'm just going to think that

12 brand as a whole -- I'm just going to have negative
13 connotations with that brand.

14 In that case, it seems to be unfair
15 because we didn't manage that customer experience,
16 right. When it came to the payment, we have no
17 choice.

18 So as a result -- and then we get a
19 negative one-star rating -- you know, we get a
20 run-star rating on the Apple App Store for something
21 which we have no control. So I think, you know,
22 managing that customer relationship is going to be
23 important.

24 And then one other thing that we do,
25 when we manage the payment, we also use that
00037:01 information to provide additional checks which are
02 relevant in our category. So we will run, for
03 example, a registered sex offender check for using
04 some of that billing information, and because when
05 we process users through IAP, we don't receive that
06 information, so we don't run registered sex offender
07 checks for iOS users.

21. PAGE 37:25 TO 38:11 (RUNNING 00:00:37.861)

25 Q. Just to local sense, so does Match Group
00038:01 process customer purchases of either subscriptions
02 or in-app purchases for its iOS apps?

03 A. Not directly, no.

04 Q. So who does that?

05 A. Apple does that.

06 Q. Who else?

07 A. No one else.

08 Q. Why is that?

09 A. So for products such as ours, we are
10 forced to use Apple's in-app payment system.

11 Q. Forced how?

22. PAGE 38:13 TO 39:02 (RUNNING 00:00:45.619)

13 A. If we -- if we don't do it, you know,
14 our app will not get approved. If we are not using
15 in-app payments, our app will not get approved.

16 Q. When you say "not get approved," you
17 mean not get approved by Apple; correct?

18 A. Correct.

19 Q. Does Match Group pay a fee to Apple in
20 connection with this in-app payment processing?

21 A. Yes.

22 Q. How much?

23 A. It's 30 percent for subscribers under a
24 year, and it's 15 percent after a year, but
25 essentially, it equates to 30 percent because most
00039:01 daters are not subscribed to the app for longer than
02 that.

23. PAGE 39:16 TO 39:24 (RUNNING 00:00:32.729)

16 Q. Assume that Apple imposed no
17 restrictions; what would Match do with respect to
18 payment processing within iOS?

19 A. We would offer our own payment system.
20 We would run registered sex offender checks. We
21 would reduce pricing, if users paid that through
22 that method. And essentially, we would direct
23 customers, if they had refunds, directly to our
24 customer service.

22 A. The majority of people do not -- you
23 know, if their main device is an iOS device, they're
24 not using an Android device as well.

50. PAGE 67:15 TO 67:19 (RUNNING 00:00:14.774)

15 Q. Just to get it -- again, I don't expect
16 you to know the exact percentage necessarily, but as
17 an order of magnitude, more or less than 5 percent
18 of users who are on Tinder iOS and then log on to
19 Tinder on Android?

51. PAGE 67:22 TO 67:22 (RUNNING 00:00:02.562)

22 A. I don't know the answer to that.

52. PAGE 67:23 TO 68:05 (RUNNING 00:00:22.710)

23 Q. Have you reached any conclusion about
24 whether Android is a substitute for iOS for
25 Match Group's products?
00068:01 A. It is not a substitute.
02 Q. Have you reached any conclusions about
03 whether web browsers are a substitute for iOS's --
04 for iOS for Match Group's products?
05 A. It's not a substitute.

53. PAGE 69:17 TO 69:21 (RUNNING 00:00:22.470)

17 Q. So in 2020, what percentage of total
18 Tinder revenue was attributable to iOS?
19 A. █ percent.
20 Q. Could Match Group simply abandon iOS and
21 develop its products solely for other platforms?

54. PAGE 69:23 TO 70:09 (RUNNING 00:00:41.245)

23 A. No.
24 Q. Why not?
25 A. As you can see, it's got the majority of
00070:01 the distribution, and for a dating platform, that
02 would be -- that would be extremely destructive,
03 because essentially, it would be a negative
04 experience in terms of you wouldn't have those
05 users -- for the Android users to find as well.
06 Q. Well, couldn't users just switch back
07 and forth between Android apps and iOS apps so they
08 could reach the total dating pool; couldn't users do
09 that?

55. PAGE 70:11 TO 70:15 (RUNNING 00:00:13.697)

11 A. Well, they don't switch between Android
12 and the -- the majority do not switch between the
13 Android and iOS. There's nuances to each platform,
14 and I think once people become comfortable, they
15 stick to the one.

56. PAGE 72:07 TO 72:10 (RUNNING 00:00:08.841)

07 Q. Does the majority of Match Group's
08 revenues come from its iOS apps as opposed to
09 Android apps or websites?
10 A. Yes.

57. PAGE 73:01 TO 73:04 (RUNNING 00:00:12.493)

00073:01 Q. Is there a brand operated by Match Group
02 that has same subscription price between mobile apps
03 and a website?
04 A. I'm not -- I'm not sure.